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FOR IMMEDIATE RELEASE
WEDNESDAY, APRIL 1, 2009
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TWO CHICAGO BOARD OF TRADE FLOOR TRADERS CHARGED WITH DEFRAUDING CUSTOMERS OUT OF MORE THAN \$2 MILLION

CHICAGO – Two Chicago Board of Trade floor traders in the Five-Year Treasury Note futures trading pit were indicted on federal fraud charges for allegedly engaging in noncompetitive trades that resulted in profits to them exceeding \$2 million, while depriving customers of one of the traders the opportunity to make those profits themselves. The defendants, **Edward C. Sarvey** and **David G. Sklena**, were charged in an 11-count indictment returned by a federal grand jury late yesterday, Patrick J. Fitzgerald, United States Attorney for the Northern District of Illinois, and Robert D. Grant, Special Agent-in-Charge of the Chicago Office of the Federal Bureau of Investigation, announced today.

Sarvey, 46, of Lemont, a member of the CBOT and a dual trader in that he both executed customer orders and traded for his own account, started trading in the Five-Year Treasury Note futures trading pit in 1988. Sklena, 49, of Skokie, also a CBOT member who began trading in the Five-Year Treasury Note futures pit in 1992, was trading only for his own account on the day the allegedly fraudulent transactions occurred.

Sarvey and Sklena were each charged with six counts of wire fraud, one count of commodities fraud, and two counts of noncompetitive futures trading in violation of the Commodity Exchange Act. Sarvey alone was also charged with two additional counts of noncompetitive trading. The indictment also seeks forfeiture of \$2.1 million from both defendants. They will be arraigned at a later date in U.S. District Court.

According to the indictment, on April 2, 2004, the U.S. Bureau of Labor Statistics released its Employment Situation Report at approximately 7:30 a.m., showing an increase in new jobs. U.S. financial markets reacted to the news with falling Treasury Note prices, and a corresponding decline in Treasury Note futures contracts prices, although the market later rallied.

Before the report was released, Sarvey had accepted customer orders to sell 2,474 contracts in the trading pit if the market dropped to certain levels. After the employment report was released, the price of Five-Year Treasury Note futures contracts dropped to the low price of the day at approximately 7:31 a.m., and then climbed higher over the next several minutes. When the market dropped to the day's lowest price, Sarvey's customer orders to sell were triggered, and became orders to sell the contracts as soon as possible at the best price available to the customers.

The indictment alleges that Sarvey sold 2,274 of the customers' futures contracts to Sklena at a price that was much lower than the price that was actually trading at the time, and that the trade was not executed openly and competitively as required by CFTC and CBOT rules. This trade deprived Sarvey's customers of the opportunity to obtain a better price for the sale of their futures contracts. Sarvey also sold 200 of the artificially low-priced futures contracts to two other traders. Following Sklena's noncompetitive purchase of 2,274 contracts from Sarvey, Sklena immediately sold 485 of the contracts back to Sarvey in another noncompetitive trade. Sklena then sold the remaining 1,789 (2,274 minus 485) futures contracts on the CBOT's electronic trading platform and realized a personal gain of approximately \$1.65 million. Using the electronic trading platform,

Sarvey sold the 485 contracts he bought from Sklena and realized a personal gain of approximately \$357,000. Overall, public customers allegedly lost approximately \$2.1 million.

The government is being represented by Assistant U.S. Attorney Clifford Histed. The Commodity Futures Trading Commission cooperated with the investigation.

If convicted, each count of wire fraud carries a maximum penalty of 20 years in prison and a maximum fine of \$250,000, while each violation of the Commodity Exchange Act carries a maximum of 5 years in prison and a \$500,000 fine, or the Court may impose a fine totaling twice the loss to any victim or twice the gain to the defendant, whichever is greater. The Court, however, would determine the appropriate sentence to be imposed under the advisory United States Sentencing Guidelines.

The public is reminded that an indictment contains only charges and is not evidence of guilt. The defendant is presumed innocent and is entitled to a fair trial at which the government has the burden of proving guilt beyond a reasonable doubt.

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